

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

NAVIGATOR HEARTLAND GREENWAY,
LLC,

Petitioner,

v.

IOWA UTILITIES BOARD,

Respondent.

Case No. EQCE088024

**RESPONSE TO MOTION FOR
TEMPORARY INJUNCTION**

COMES NOW Respondent Iowa Utilities Board (Board), by and through its undersigned counsel, and in response to Petitioner's Motion for Temporary and Preliminary Injunction respectfully states:

1. Pursuant to 199 Iowa Administrative Code (IAC) 1.9(6)"c", when a party has made a compliant request that a record not be made available for public inspection, the Board will temporarily withhold such record from public inspection during the pendency of such request.

2. On December 30, 2021, Navigator Heartland Greenway, LLC (Navigator) filed an Application for Confidential Treatment in Board Docket No. HLP-2021-0003 in regard to the materials for which the temporary and preliminary injunction is now sought in this District Court action. The filing of such request triggers the temporary withholding of the materials by the Board pursuant to 199 IAC 1.9(6)"c".

3. Pursuant to 199 Iowa Administrative Code (IAC) 1.9(8)"b"(3), following a request for the examination of records determined to be confidential pursuant to Board rules and Iowa Code Chapter 22, the Board will provide notice to the parties and will withhold the

confidential records for 14 days to allow the party who submitted the material to seek injunctive relief. If injunctive relief is not requested within the 14-day period, the Board will produce the records for inspection.

4. In the above-captioned case, Navigator has requested injunctive relief.

5. Consistent with 199 IAC 1.9(8), the Board will withhold the records that are the subject of the requested injunction until such time as a determination is made by the Court as to the confidentiality of such records.

6. As Board rules provide for the temporary withholding of confidential records while an injunction is sought by a party, the Board does not resist the granting of a temporary injunction to allow for the litigation of the issues raised herein.

7. There are two related cases (seeking injunctive relief regarding asserted confidentiality of mailing lists) pending in Polk County District Court: *Summit Carbon Solutions, LLC v. Iowa Utilities Board*, CVCV062900 (8/12/2022 order denying motion for permanent injunction; 9/6/2022 Petitioner appeal); and *Wolf Carbon Solutions US, LLC v. Iowa Utilities Board*, EQCE088016.

WHEREFORE Respondent Iowa Utilities Board requests this Court grant such relief as may be just and equitable under the circumstances.

Respectfully submitted,

/s/ Jon Tack
Jon Tack (AT0007738)
General Counsel
Iowa Utilities Board
1375 East Court Avenue
Des Moines, IA 50319-0069
Telephone: 515-725-7333
E-mail: jon.tack@iub.iowa.gov

/s/ Diana S. Machir
Diana S. Machir (AT0006640)
Iowa Utilities Board
1375 E. Court Avenue
Des Moines, IA 50319-0069
Telephone: (515) 725-0550
Email: diana.machir@iub.iowa.gov

ALL PARTIES SERVED ELECTRONICALLY